

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL CASE NO. 5:21-cv-00024-MR**

MARCUS RANDALL BROWN,)
)
Plaintiff,)
)
vs.)
)
CARLOS HERNANDEZ, et al.,) **ORDER**
)
Defendants.)
)

THIS MATTER is before the Court *sua sponte*.

The *pro se* incarcerated Plaintiff filed this action pursuant to 42 U.S.C. § 1983 and the Americans with Disabilities Act, 42 U.S.C. § 1201, *et seq.*, addressing incidents that allegedly occurred at the Alexander Correctional Institution. [Doc. 1]. On September 7, 2021, the Complaint was dismissed on initial review because the Plaintiff had failed to state a claim against any Defendant. [See Doc. 10]. The Plaintiff was granted 30 days within which to amend the Complaint to correct its deficiencies and properly state a claim upon which relief can be granted. He was cautioned that the failure to timely amend the Complaint would result in this action's dismissal without prejudice and without further notice. [Id.].

The Plaintiff has failed to amend the Complaint, and the time to do so has expired. The Plaintiff appears to have abandoned this action, and the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE.**

The Clerk of Court is respectfully directed to terminate this action.

IT IS SO ORDERED. Signed: October 26, 2021



Martin Reidinger
Chief United States District Judge

